

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CV 11-6274 SI

In re:

**ORDER DISMISSING APPEAL FOR  
FAILURE TO PROSECUTE**

NASIR SHEIKH,  
Debtor/Appellant.

The Notice of Appeal in this bankruptcy appeal was filed on December 13, 2011. Dkt 1. The Record on Appeal was entered on March 16, 2012. Dkt. 3. Pursuant to Fed. R. Bankr. P. 8010 and B.L.R. 8010-1, appellant then had until April 17, 2012 (30 days after entry in the District Court docket) to serve and file a brief not exceeding 25 pages in length. *See* Bankr. Scheduling Order, dkt. 4. On June 18, 2012, after having not received any filings from appellant, the Court issued an Order to Show Cause why this appeal should not be dismissed for failure to prosecute, pursuant to Fed. R. Bankr. P. 8001(a). The Court gave appellant until June 30, 2012 to show cause. Appellant has not made any filings nor contacted the Court in any other way.

The District Court has the authority to dismiss a case for lack of prosecution pursuant to its inherent authority, Fed. R. Civ. P. 41(b), and Fed. R. Bankr. P. 8001(a). *See Link v. Wabash R. Co.*, 370 U.S. 626, (1962); *In re: Donovan*, 871 F. 2d 807, 808 (9th Cir. 1989) (analogizing dismissal of a bankruptcy appeal for failure to prosecute to a dismissal under Fed. R. Civ. P. 41(b)). Failure to prosecute diligently alone justifies dismissal, even where actual prejudice to the defendant is not shown. *Moore v. Telfon Communications Corp.*, 589 F.2d 959, 967 (9th Cir. 1978).

It has been seven months since the Notice of Appeal was entered, four months since the Record on Appeal was filed, and one month since the Court issued its Order to Show Cause. Appellant has not

1 made any filings regarding this appeal nor contacted the Court in any other way. The Court finds that  
2 under these circumstances, dismissal is warranted. *See In re: Fitzsimmons*, 920 F.2d 1468, 1470 (9th  
3 Cir. 1990) (affirming dismissal where appellant delayed service of designation for over a month); *In re:*  
4 *600 Alabama*, 2010 WL 2653289 (N.D. Cal. July 2, 2010) (Armstrong, J.) (dismissing appeal where  
5 appellants failed to make any filings with the Court nine months after notice of appeal was filed).

6 This appeal is DISMISSED for failure to prosecute. The Clerk shall close the file.

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8 **IT IS SO ORDERED.**

9 Dated: July 16, 2012



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SUSAN ILLSTON  
United States District Judge